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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 MARY DENISE OBERTRIFTER aka
13 MARY D. PARK GANLEY OBERTRIFTER
28157 Church Street
14 Barstow, CA 92311-4436

15 Registered Nurse License No. 362134

16 Respondent.

Case No. 2005-151

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation and
20 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
21 of Registered Nursing (Board), Department of Consumer Affairs.

22 2. On or about August 31, 1983, the Board issued Registered Nurse License
23 No. 362134 to Mary Denise Obertrifter aka Mary D. Park Ganley Obertrifter (Respondent). The
24 Registered Nurse License will expire on October 31, 2009, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Statement of Issues
26 Against Mary D. Obertrifter," Case No. 2005-151, the Board issued its decision, effective May 9,
27 2006, in which Respondent's Registered Nurse License was revoked, revocation stayed, and
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1 placed on probation for a period of three (3) years with certain terms and conditions. A copy of
2 that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

4 4. This Accusation and Petition to Revoke Probation is brought before the
5 Board, under the authority of the following laws. All section references are to the Business and
6 Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Code states:

9 "Every certificate holder or licensee, including licensees holding temporary
10 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
11 in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used
12 in this article, "license" includes certificate, registration, or any other authorization to engage in
13 practice regulated by this chapter. The proceedings under this article shall be conducted in
14 accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
15 of the Government Code [the Administrative Procedure Act], and the board shall have all the
16 powers granted therein."

17 6. Section 2761 states:

18 "The board may take disciplinary action against a certified or licensed nurse or
19 deny an application for a certificate or license for any of the following:

20 (a) Unprofessional conduct, which includes, but is not limited to, the following:

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22 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
24 Nursing Practice Act] or regulations adopted pursuant to it."

25 7. Section 2762 states:

26 "In addition to other acts constituting unprofessional conduct within the meaning
27 of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of
28 the following:

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

10. DEFINITIONS

A. "Methamphetamine" is a Schedule II controlled substance as defined by Health and Safety Code section 11055, subdivision (d)(2) and a dangerous drug pursuant to Business and Professions Code section 4022.

B. "Amphetamine" is a Schedule II controlled substance as defined by Health and Safety Code section 11055, subdivision (d)(2) and a dangerous drug pursuant to Business and Professions Code section 4022.

ACCUSATION

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

9. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (d) of the Code, on the grounds of unprofessional conduct as follows:

A. On or about March 10, 2008, through on or about November 18, 2008, Respondent, tested positive for drugs for the presence of drugs. The positive tests include but are not limited to the following;

3/10/08-positive-Methamphetamine

5/12/08-positive-Amphetamine

7/7/08-positive-Methamphetamine

1 6/4/08-positive-Alcohol

2 7/7/08-positive-Amphetamine

3 11/3/08-positive-Methamphetamine

4 11/18/08-positive-Methamphetamine

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Drug Abuse)**

7 10. Respondent's license is subject to disciplinary action under section 2761,
8 subdivision (a) of the Code, on the grounds of unprofessional conduct as defined under section
9 2762, subdivision (b), in that Respondent unlawfully abused controlled substances. Complainant
10 refers to, and by this reference incorporates the allegations in paragraph 9, subparagraph A, as
11 though set forth fully.

12 **PETITION TO REVOKE PROBATION**

13 **CAUSE TO REVOKE PROBATION**

14 **(Violation of Administrative Decision and Order)**

15 11. Respondent is subject to having her probation and license revoked, in that
16 Respondent violated certain terms and conditions of probation, as follows:

17 At all times after the effective date of Respondent's probation, Conditions 2, 16,
18 and 17 of the Board's Administrative Decision and Order stated:

19 Condition 2: Comply with the Board's Probation Program. "Respondent shall
20 fully comply with the conditions of the Probation Program established by the Board and
21 cooperate with representatives of the Board in its monitoring and investigation of the
22 Respondent's compliance with the Board's Probation Program. Respondent shall inform the
23 Board in writing within no more than 15 days of any address change and shall at all times
24 maintain an active current license status with the Board, including during any period of
25 suspension."

26 "Upon successful completion of probation, Respondent license shall be fully
27 restored."

28 Condition 16: Abstain from Use of Psychotropic (Mood-Altering) Drugs.

1 "Respondent shall completely abstain from the possession, injection or consumption by any route
2 of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, and
3 methamphetamine except when the same are ordered by health care professional legally
4 authorized to do so as part of documented medical treatment. Respondent shall have sent to the
5 Board, in writing and within fourteen (14) days, by the prescribing health care professional, a
6 report identifying the medication, dosage, the date the medication was prescribed, the
7 Respondent's prognosis, the date the medication will no longer be required, and the effect on the
8 recovery plan, if appropriate."

9 "Respondent shall identify for the Board a single physician, nurse practitioner or
10 physician assistant who shall be aware of Respondent's history of substance abuse and will
11 coordinate and monitor any prescriptions for dangerous drugs, controlled substances or mood-
12 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
13 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
14 considered addictive have been prescribed, the report shall identify a program for the time
15 limited use of any such substance."

16 "The Board may require the single coordinating physician, nurse practitioner, or
17 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
18 addictive medicine."

19 Condition 17: Submit to Tests and Samples. "Respondent, at her expense shall
20 participate in a random, biological fluid testing or a drug screening program which the Board
21 approves. The length of time and frequency will be subject to approval by the Board.
22 Respondent is responsible for keeping the Board informed of Respondent's current telephone
23 number at all times. Respondent shall also ensure that messages may be left at the telephone
24 number when she is not available and ensure that reports are submitted directly by the testing
25 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
26 to the Board by the program and Respondent shall be considered in violation of probation."

27 "In addition, Respondent, at any time during the period of probation, shall fully
28 cooperate with the Board or any of its representatives, and shall, when requested, submit to such

1 tests and samples as the Board or its representatives may require for the detection of alcohol,
2 narcotics, hypnotics, dangerous drugs, or other controlled substances.”

3 “If Respondent has a positive drug screen for any substance not legally
4 authorized and not reported to the coordinating physician, nurse practitioner, or physician
5 assistant, and the Board files a petition to revoke probation or an accusation, the Board may
6 suspend Respondent from practice pending the final decision on the petition to revoke probation
7 or the accusation. This period of suspension will not apply to the reduction of this probationary
8 time period.”

9 “If Respondent fails to participate in a random, biological fluid testing or drug
10 screening program within the specified time frame, Respondent shall immediately cease practice
11 and shall not resume practice until notified by the Board. After taking into account documented
12 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
13 Board may suspend Respondent from practice pending the final decision on the petition to
14 revoke probation or an accusation. This period of suspension will not apply to the reduction of
15 this probationary time period.”

16 17 **GROUND FOR REVOKING PROBATION**

18 12. Grounds exist for revoking probation and imposing the order of
19 revocation of Respondent’s license for failing to comply with the following terms:

20 Condition No. 2: Respondent violated the conditions of her probation, as she
21 failed to comply with Conditions Nos. 16, and 17 above.

22 Condition No. 16: Respondent violated the conditions of her probation, as she
23 failed to abstain from the use of mind altering drugs by testing positive for drugs and alcohol.

24 Condition No. 17: Respondent violated the conditions of her probation, as she
25 failed to submit to random drug testing on 12/3/08 and 12/17/08.

26 27 **PRAYER**

28 WHEREFORE, Complainant requests that a hearing be held on the matters herein

1 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

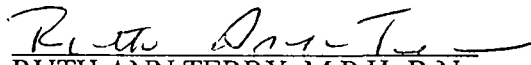
2 1. Revoking the probation that was granted by the Board of Registered
3 Nursing in Case No.2005-151 and imposing the disciplinary order that was stayed thereby
4 revoking Registered Nurse License No. 362134 issued to Mary Denise Obertrifter aka Mary D.
5 Park Ganley Obertrifter;

6 2. Revoking or suspending Registered Nurse License No. 362134, issued to
7 Mary Denise Obertrifter aka Mary D. Park Ganley Obertrifter;

8 3. Ordering Mary Denise Obertrifter aka Mary D. Park Ganley Obertrifter
9 pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of
10 this case, pursuant to Business and Professions Code section 125.3;

11 4. Taking such other and further action as deemed necessary and proper.

12 DATED: 2/24/09

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14 
15 RUTH ANN TERRY, M.P.H., R.N.
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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22 OBER.PET.WPD
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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARY D. OBERTRIFTER
28157 Church Street
Barstow, CA 92311-4436

Registered Nurse License No. 362134

Respondent

Case No. 2005-151

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on March 9, 2006.

IT IS SO ORDERED February 9, 2006.



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 STEPHEN A. MILLS, State Bar No. 54145
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6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2005-151

12 MARY D. OBERTRIFTER, A.K.A. MARY D.
PARK, A.K.A. MARY DENISE BODINE,
13 A.K.A. MARY DENISE PARK, A.K.A.
28157 Church Street
Barstow, CA 92311-4436

OAH No. L-2005050280

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Registered Nurse License No. 362134

15 Respondent.
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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
24 Stephen A. Mills, Deputy Attorney General.

25 2. Respondent Mary D. Obertrifter, a.k.a. Mary D. Park, a.k.a. Mary Denise
26 Bodine, a.k.a. Mary Denise Park, a.k.a. (Respondent) is representing herself in this proceeding
27 and has chosen not to exercise her right to be represented by counsel.

28 ///

3. On or about August 31, 1983, the Board of Registered Nursing issued Registered Nurse License No. 362134 to Mary D. Obertriffter, a.k.a. Mary D. Park, a.k.a. Mary Denise Bodine, a.k.a. Mary Denise Park, a.k.a. Ganley (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2005-151 and will expire on October 31, 2005, unless renewed.

JURISDICTION

4. Accusation No. 2005-151 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 7, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2005-151 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and understands the charges and allegations in Accusation No. 2005-151. Respondent has also carefully read and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. For the purposes of resolving the Accusation without the expense and time of further proceedings, Respondent stipulates and admits that the allegations of the accusations are true, except that at page 5, line 11, the date of August 11, 2004, is corrected to August 11,

1 2000. On page 5, lines 16 and 17, the date of July 7, 2000 is corrected to July 20, 2000. On page
2 5, line 23, the date of July 2, 2000 is corrected to July 20, 2000. On page 6, lines 4 and 5, the
3 date of August 11, 2004 is corrected to July 20, 2000. These admissions are made solely for the
4 purpose of this and any future proceedings between Respondent and the Board, and are
5 inadmissible in any other or collateral proceedings.

6 9. Respondent agrees that her Registered Nurse License is subject to
7 discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the
8 Disciplinary Order below.

9 CIRCUMSTANCES IN MITIGATION

10 10. Respondent Mary D. Obertrifter has never been the subject of any
11 disciplinary action. She is admitting responsibility at an early stage in the proceedings.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Registered
14 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
15 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
16 and settlement, without notice to or participation by Respondent. By signing the stipulation,
17 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
18 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
19 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
20 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
21 between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 12. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
25 force and effect as the originals.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Board may, without further notice or formal proceeding, issue and enter the
28 following Disciplinary Order:

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1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated
3 representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction
6 of this probation time period. Respondent's probation is tolled, if and when she resides outside
7 of California. Respondent must provide written notice to the Board within 15 days of any change
8 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
12 provide information regarding the status of each license and any changes in such license status
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
14 new nursing license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency
22 in every state and territory in which she has a registered nurse license.

23 **Submit Written Reports.** Respondent, during the period of probation, shall submit or cause to
24 be submitted such written reports/declarations and verification of actions under penalty of
25 perjury, as required by the Board. These reports/declarations shall contain statements relative to
26 Respondent's compliance with all the conditions of the Board's Probation Program. Respondent
27 shall immediately execute all release of information forms as may be required by the Board or its
28 representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related

1 employment with a full explanation of the circumstances surrounding the termination or
2 separation.

3 8. **Supervision.** Respondent shall obtain prior approval from the Board
4 regarding Respondent's level of supervision and/or collaboration before commencing or
5 continuing any employment as a registered nurse, or education and training that includes patient
6 care.

7 Respondent shall practice only under the direct supervision of a registered nurse
8 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
9 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
10 are approved.

11 Respondent's level of supervision and/or collaboration may include, but is not
12 limited to the following:

13 (a) Maximum - The individual providing supervision and/or collaboration is
14 present in the patient care area or in any other work setting at all times.

15 (b) Moderate - The individual providing supervision and/or collaboration is in
16 the patient care unit or in any other work setting at least half the hours Respondent works.

17 (c) Minimum - The individual providing supervision and/or collaboration has
18 person-to-person communication with Respondent at least twice during each shift worked.

19 (d) Home Health Care - If Respondent is approved to work in the home health
20 care setting, the individual providing supervision and/or collaboration shall have person-to-
21 person communication with Respondent as required by the Board each work day. Respondent
22 shall maintain telephone or other telecommunication contact with the individual providing
23 supervision and/or collaboration as required by the Board during each work day. The individual
24 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
25 site visits to patients' homes visited by Respondent with or without Respondent present.

26 9. **Employment Limitations.** Respondent shall not work for a nurse's
27 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
28 traveling nurse, or for an in-house nursing pool.

1 Respondent shall not work for a licensed home health agency as a visiting nurse
2 unless the registered nursing supervision and other protections for home visits have been
3 approved by the Board. Respondent shall not work in any other registered nursing occupation
4 where home visits are required.

5 Respondent shall not work in any health care setting as a supervisor of registered
6 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
7 nurses and/or unlicensed assistive personnel on a case-by-case basis.

8 Respondent shall not work as a faculty member in an approved school of nursing
9 or as an instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and predetermined
11 worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week, the
13 Board may request documentation to determine whether there should be restrictions on the hours
14 of work.

15 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
16 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
17 than six months prior to the end of her probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the
19 course(s). Respondent shall submit to the Board the original transcripts or certificates of
20 completion for the above required course(s). The Board shall return the original documents to
21 Respondent after photocopying them for its records.

22 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
23 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
24 amount of \$4,900.00. Respondent shall be permitted to pay these costs in a payment plan
25 approved by the Board, with payments to be completed no later than three months prior to the
26 end of the probation term.

27 If Respondent has not complied with this condition during the probationary term,
28 and Respondent has presented sufficient documentation of her good faith efforts to comply with

1 this condition, and if no other conditions have been violated, the Board, in its discretion, may
2 grant an extension of Respondent's probation period up to one year without further hearing in
3 order to comply with this condition. During the one year extension, all original conditions of
4 probation will apply.

5 **12. Violation of Probation.** If Respondent violates the conditions of her
6 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
7 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

8 If during the period of probation, an accusation or petition to revoke probation has
9 been filed against Respondent's license or the Attorney General's Office has been requested to
10 prepare an accusation or petition to revoke probation against Respondent's license, the
11 probationary period shall automatically be extended and shall not expire until the accusation or
12 petition has been acted upon by the Board.

13 **13. License Surrender.** During Respondent's term of probation, if she ceases
14 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
15 probation, Respondent may surrender her license to the Board. The Board reserves the right to
16 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
17 take any other action deemed appropriate and reasonable under the circumstances, without
18 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
19 will no longer be subject to the conditions of probation.

20 Surrender of Respondent's license shall be considered a disciplinary action and
21 shall become a part of Respondent's license history with the Board. A registered nurse whose
22 license has been surrendered may petition the Board for reinstatement no sooner than the
23 following minimum periods from the effective date of the disciplinary decision:

24 (1) Two years for reinstatement of a license that was surrendered for any
25 reason other than a mental or physical illness; or

26 (2) One year for a license surrendered for a mental or physical illness.

27 **14. Physical Examination.** Within 45 days of the effective date of this
28 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or

1 physician assistant, who is approved by the Board before the assessment is performed, submit an
2 assessment of the Respondent's physical condition and capability to perform the duties of a
3 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
4 medically determined, a recommended treatment program will be instituted and followed by the
5 Respondent with the physician, nurse practitioner, or physician assistant providing written
6 reports to the Board on forms provided by the Board.

7 If Respondent is determined to be unable to practice safely as a registered nurse,
8 the licensed physician, nurse practitioner, or physician assistant making this determination shall
9 immediately notify the Board and Respondent by telephone, and the Board shall request that the
10 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
11 shall immediately cease practice and shall not resume practice until notified by the Board.
12 During this period of suspension, Respondent shall not engage in any practice for which a license
13 issued by the Board is required until the Board has notified Respondent that a medical
14 determination permits Respondent to resume practice. This period of suspension will not apply
15 to the reduction of this probationary time period.

16 If Respondent fails to have the above assessment submitted to the Board within
17 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
18 practice until notified by the Board. This period of suspension will not apply to the reduction of
19 this probationary time period. The Board may waive or postpone this suspension only if
20 significant, documented evidence of mitigation is provided. Such evidence must establish good
21 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
22 provided. Only one such waiver or extension may be permitted.

23 **15. Participate in Treatment/Rehabilitation Program for Chemical**
24 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
25 period or shall have successfully completed prior to commencement of probation a Board-
26 approved treatment/rehabilitation program of at least six months duration. As required, reports
27 shall be submitted by the program on forms provided by the Board. If Respondent has not
28 completed a Board-approved treatment/rehabilitation program prior to commencement of

1 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
2 a program. If a program is not successfully completed within the first nine months of probation,
3 the Board shall consider Respondent in violation of probation.

4 Based on Board recommendation, each week Respondent shall be required to
5 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
6 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
7 by the Board. If a nurse support group is not available, an additional 12-step meeting or
8 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
9 such attendance to the Board during the entire period of probation. Respondent shall continue
10 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
11 mental health examiner and/or other ongoing recovery groups.

12 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
13 shall completely abstain from the possession, injection or consumption by any route of all
14 controlled substances and all psychotropic (mood altering) drugs, including alcohol, and
15 methamphetamine except when the same are ordered by a health care professional legally
16 authorized to do so as part of documented medical treatment. Respondent shall have sent to the
17 Board, in writing and within fourteen (14) days, by the prescribing health professional, a report
18 identifying the medication, dosage, the date the medication was prescribed, the Respondent's
19 prognosis, the date the medication will no longer be required, and the effect on the recovery plan,
20 if appropriate.

21 Respondent shall identify for the Board a single physician, nurse practitioner or
22 physician assistant who shall be aware of Respondent's history of substance abuse and will
23 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
24 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
25 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
26 condition. If any substances considered addictive have been prescribed, the report shall identify a
27 program for the time limited use of any such substances.

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1 The Board may require the single coordinating physician, nurse practitioner, or
2 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
3 addictive medicine.

4 **17. Submit to Tests and Samples.** Respondent, at her expense, shall
5 participate in a random, biological fluid testing or a drug screening program which the Board
6 approves. The length of time and frequency will be subject to approval by the Board.
7 Respondent is responsible for keeping the Board informed of Respondent's current telephone
8 number at all times. Respondent shall also ensure that messages may be left at the telephone
9 number when she is not available and ensure that reports are submitted directly by the testing
10 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
11 to the Board by the program and Respondent shall be considered in violation of probation.

12 In addition, Respondent, at any time during the period of probation, shall fully
13 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
14 tests and samples as the Board or its representatives may require for the detection of alcohol,
15 narcotics, hypnotics, dangerous drugs, or other controlled substances.

16 If Respondent has a positive drug screen for any substance not legally authorized
17 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
18 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
19 from practice pending the final decision on the petition to revoke probation or the accusation.
20 This period of suspension will not apply to the reduction of this probationary time period.

21 If Respondent fails to participate in a random, biological fluid testing or drug
22 screening program within the specified time frame, Respondent shall immediately cease practice
23 and shall not resume practice until notified by the Board. After taking into account documented
24 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
25 Board may suspend Respondent from practice pending the final decision on the petition to
26 revoke probation or the accusation. This period of suspension will not apply to the reduction of
27 this probationary time period.

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1 18. **Mental Health Examination.** Respondent shall, within 45 days of the
2 effective date of this Decision, have a mental health examination including psychological testing
3 as appropriate to determine her capability to perform the duties of a registered nurse. The
4 examination will be performed by a psychiatrist, psychologist or other licensed mental health
5 practitioner approved by the Board. The examining mental health practitioner will submit a
6 written report of that assessment and recommendations to the Board. All costs are the
7 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
8 result of the mental health examination will be instituted and followed by Respondent.

9 If Respondent is determined to be unable to practice safely as a registered nurse,
10 the licensed mental health care practitioner making this determination shall immediately notify
11 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
12 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
13 practice and may not resume practice until notified by the Board. During this period of
14 suspension, Respondent shall not engage in any practice for which a license issued by the Board
15 is required, until the Board has notified Respondent that a mental health determination permits
16 Respondent to resume practice. This period of suspension will not apply to the reduction of this
17 probationary time period.

18 If Respondent fails to have the above assessment submitted to the Board within
19 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
20 practice until notified by the Board. This period of suspension will not apply to the reduction of
21 this probationary time period. The Board may waive or postpone this suspension only if
22 significant, documented evidence of mitigation is provided. Such evidence must establish good
23 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
24 provided. Only one such waiver or extension may be permitted.

25 19. **Therapy or Counseling Program.** Respondent, at her expense, shall
26 participate in an on-going counseling program until such time as the Board releases her from this
27 requirement and only upon the recommendation of the counselor. Written progress reports from
28 the counselor will be required at various intervals.

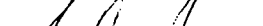
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DATED: 8/17/05

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13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
15 Affairs.

DATED: 8/18/2005


STEPHEN A. MILLS
Deputy Attorney General
Attorneys for Complainant

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28

Exhibit A

Accusation No. 2005-151

1 BILL LOCKYER, Attorney General
of the State of California
2 STEPHEN A. MILLS, State Bar No. 54145
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2539
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2005-151

12 MARY D. OBERTRIFTER
a.k.a. MARY D. PARK
13 a.k.a. MARY DENISE BODINE
a.k.a. MARY DENISE PARK
14 a.k.a. MARK DENISE GANLEY
28157 Church Street
15 Barstow, CA 92311-4436

A C C U S A T I O N

16 Registered Nurse License No. 362134

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs.

24 2. On or about August 31, 1983, the Board of Registered Nursing (Board)
25 issued Registered Nurse License No. 362134 to Mary D. Obertrifter, a.k.a. Mary D. Park, a.k.a.
26 Mary Denise Bodine, a.k.a. Mary Denise Park, a.k.a. Mary Denise Ganley (Respondent). The

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1 license was in full force and effect at all times relevant to the charges brought herein and will
2 expire on October 31, 2005, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board, under the authority of the
5 following laws. All section references are to the Business and Professions Code (Code) unless
6 otherwise indicated.

7 4. Section 2750 states, in pertinent part:

8 "Every certificate holder or licensee, including licensees holding temporary
9 licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided
10 in this article [article 3, commencing with section 2750]. As used in this article, 'license' includes
11 certificate, registration, or any other authorization to engage in the practice regulated by this
12 chapter [chapter 6, commencing with section 2700]."

13 5. Section 118, subdivision (b), states:

14 "The suspension, expiration, or forfeiture by operation of law of a license issued
15 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
16 by order of a court of law, or its surrender without the written consent of the board, shall not,
17 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
18 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
19 ground provided by law or to enter an order suspending or revoking the license or otherwise
20 taking disciplinary action against the licensee on any such ground."

21 6. Section 2764 states:

22 "The lapsing or suspension of a license by operation of law or by order or decision
23 of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not
24 deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding
25 against such license, or to render a decision suspending or revoking such license."

26 7. Section 2811, subdivision (b), of the Code provides in pertinent part, that
27 each license not renewed in accordance with that section shall expire, but may within a period of
28 eight years thereafter be reinstated.

1 8. Section 2761 states, in pertinent part:

2 "The board may take disciplinary action against a certified or licensed nurse or
3 deny an application for a certificate or license for any of the following:

4 "(a) Unprofessional conduct . . .

5 . . .

6 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
7 abetting the violating of, or conspiring to violate any provision or term of this chapter [chapter 6,
8 commencing with section 2700] or regulations adopted pursuant to it.

9 . . .

10 "(f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of the
12 conviction shall be conclusive evidence thereof."

13 9. Section 2762 states, in pertinent part:

14 "In addition to other acts constituting unprofessional conduct within the meaning
15 of this chapter [chapter 6, commencing with section 2700], it is unprofessional conduct for a
16 person licensed under this chapter to do any of the following:

17 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
18 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
19 or administer to another, any controlled substance as defined in Division 10 (commencing with
20 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
21 defined in Section 4022.

22 "(b) Use any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
24 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
25 injurious to himself or herself, any other person, or the public or to the extent that such use
26 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
27 license.

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1 "(c) Be convicted of a criminal offense involving the prescription, consumption,
2 or self-administration of any of the substances described in subdivisions (a) and (b) of this
3 section, or the possession of, or falsification of a record pertaining to, the substances described in
4 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
5 thereof."

6 10. Section 490 states:

7 "A board may suspend or revoke a license on the ground that the licensee has been
8 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
9 of the business or profession for which the license was issued. A conviction within the meaning
10 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
11 contendere. Any action which a board is permitted to take following the establishment of a
12 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
13 been affirmed on appeal, or when an order granting probation is made suspending the imposition
14 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
15 Penal Code."

16 11. California Code of Regulations, title 16, section 1444, states, in pertinent
17 part:

18 "A conviction or act shall be considered to be substantially related to the
19 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
20 present or potential unfitness of a registered nurse to practice in a manner consistent with the
21 public health, safety, or welfare."

22 12. Section 125.3, subdivision (a), states, in pertinent part:

23 "Except as otherwise provided by law, in any order issued in resolution of a
24 disciplinary proceeding before any board within the department . . . the board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations
26 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case."

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1 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
2 Business and Professions Code section 125.3;

3 C. Taking such other and further action as deemed necessary and proper.

4 DATED: 2/10/05

6 
7 RUTH ANN TERRY, M.P.H., R.N.
8 Executive Officer
9 Board of Registered Nursing
10 Department of Consumer Affairs
11 State of California
12 Complainant